

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

In re: Kenyon K. Kelly,

Debtor.

CASE NO. C12-5446 BHS

## ORDER DENYING MOTION FOR RECONSIDERATION

This matter comes before the Court on Appellant James J. O'Hagan's

(“O’Hagan”) motion for reconsideration (Dkt. 40).

On March 20, 2013, the Court dismissed the appeal due to O'Hagan's repeated failure to perfect the record and continued vexatious litigation tactics. Dkt. 38. On April 1, 2013, O'Hagan filed a motion for reconsideration. Dkt. 40.

Motions for reconsideration are governed by Local Rule CR 7(h), which provides as follows:

Motions for reconsideration are disfavored. The court will ordinarily deny such motions in the absence of a showing of manifest error in the prior ruling or a showing of new facts or legal authority which could not have been brought to its attention earlier with reasonable diligence.

1 Local Rule CR 7(h)(1).

2 In this case, O'Hagan fails to meet his burden. Instead, O'Hagan continues to  
3 assert that he has been a victim of fraud and impartial court systems. This is neither a  
4 showing of manifest error nor new facts or legal authority. Therefore, the Court  
5 **DENIES** his motion.

6 In the motion, O'Hagan refers to an affidavit of prejudice against the undersigned,  
7 which he alleges has been continually ignored. *See, e.g.*, Dkt. 40 at 2. The Court  
8 assumes that O'Hagan is referring to his filing entitled "Notice of Refusal of Consent to  
9 Allow any Western District Court Judge to Address Appeals of any of these Serial  
10 Bankruptcy Fraud Cases." Dkt. 32. Unlike the Rules of Civil Procedure for Washington  
11 State Superior Courts, Federal Rules of Civil Procedure do not provide for the automatic  
12 removal of a trial judge through the filing by a party of an affidavit of prejudice. Instead,  
13 a party seeking recusal must comply with Local Civil Rule 2(e). The document filed is  
14 not a proper motion for recusal and, instead, is a notice that every judge that has  
15 participated in the underlying bankruptcy, bankruptcy appeals, or related state court  
16 actions were biased against O'Hagan. Therefore, the Court did not consider the filing as  
17 a motion.

18 **IT IS SO ORDERED.**

19 Dated this 22<sup>nd</sup> day of April, 2013.

20   
21 BENJAMIN H. SETTLE  
22 United States District Judge